

REMARKS

Claims 27-50, 54-58, 60-67 and 69-86 are now pending in the application. Claims 27-50, 54-58 and 60-85 stand rejected. Claims 1-26, 51-53 and 58 (second occurrence) were previously canceled and Claim 68 is canceled herein. Claims 27, 32, 33, 39, 44, 49, 54, 60-67 and 69-85 have been amended. Claim 86 is new. Support for the amendments and new claim can be found throughout the application, drawings and claims as originally filed and, as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments, new claim and remarks contained herein.

CLAIM OBJECTIONS

Claims 27, 33, 34-50, 54-58 and 60-85 are objected to for informalities. Applicants have amended the claims to overcome these objections. Therefore, reconsideration and withdrawal of these objections are respectfully requested.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Applicants have amended Claims 32-49 to overcome this objection. Therefore, reconsideration and withdrawal of this objection is respectfully requested.

Claims 58-84 are objected to as failing to comply with 37 C.F.R. 1.121(c), which requires all claims to be numbered in ascending numerical order. By this amendment, Applicants have renumbered Claims 58-84 to be properly numbered

as Claims 60-85. Therefore, reconsideration and withdrawal of this objection is respectfully requested.

DOUBLE PATENTING REJECTION

Claims 27-50, 54-58 and 60-85 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-55 of Jascob (U.S. Pat. No. 6,636,757; hereinafter "Jascob"). This rejection is respectfully traversed.

Applicants respectfully submit that the Terminal Disclaimer filed on July 30, 2007 renders this rejection moot, and Applicants request that the Examiner remove this double-patenting rejection.

REJECTION UNDER 35 U.S.C. § 103

Claims 27-50, 54-58 and 60-85 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kienzle et al. (U.S. Pat. No. 6,285,902; hereinafter "Kienzle") in view of Sandstrom (U.S. Pat. No. 3,526,798; hereinafter "Sandstrom"). This rejection is respectfully traversed.

Kienzle discloses an X-ray imager 114 that includes a flat panel imager 151. A housing 152 can be fitted over the flat panel imager 151. The housing 152 can be generally square (as shown in Fig. 4), and can include one or more localizing emitters 153. With regard to Sandstrom, Sandstrom discloses a magnetic shielding cup-shaped member 46 formed of lead that surrounds an insulator 47. The insulator 47 is disposed between the magnetic shielding

member 46 and an X-ray shield member 35, 45. The X-ray shield member 35, 45 surrounds a collector chamber 11 and a distribution manifold 22 associated with an electron beam collector. In contrast to Kienzle and Sandstrom, independent Claim 27 recites:

...(c) a shield adapted to be positioned adjacent the metal object that shields the metal object from the electromagnetic field generated by said transmitter coil array, said **shield having a conically shaped portion that extends outwardly from a mounting mechanism**, said transmitter coil array attached to said shield, wherein said shield substantially reduces distortion of the electromagnetic field caused by the metal object, thereby enabling accurate navigation of the instrument in the electromagnetic field (emphasis added).

Independent Claim 44 recites:

...(c) a shield adapted to be attached **about a circumference of the intensifier tube**, said shield being **conically shaped to extend outwardly from said circumference of said intensifier tube**, said shield substantially shields the fluoroscope from the electromagnetic field generated by said transmitter coil array, wherein said shield substantially reduces distortion of the electromagnetic field by the fluoroscope, thereby enabling accurate navigation of the instrument in the electromagnetic field (emphasis added).

Independent Claim 54 recites:

...(c) a shield adapted to be positioned about the metal object that substantially shields the metal object from the electromagnetic field generated by said transmitter coil, said **shield being conically shaped to extend outwardly from a mounting mechanism**, said shield **defining one or more openings about a perimeter** of said shield, wherein the shield substantially reduces distortion of the electromagnetic field by the metal object, wherein the surgical

instrument is operable to be navigated in the electromagnetic field (emphasis added).

Independent Claim 70 recites:

...(c) a shield adapted to be positioned about the interfering object to substantially shield the interfering object from the field generated by said transmitter coil, said **shield defining a plurality of openings spaced about a perimeter** of said shield, wherein the shield substantially reduces distortion of the field by the interfering object (emphasis added).

In view of the above discussion, Applicants respectfully assert that the cited art, singly or in combination, does not teach, suggest or disclose each and every element of independent Claim 27, 44, 54 and 70. Kienzle discloses a housing 152, and does not disclose whatsoever a shield, as noted by the Office. With regard to Sandstrom, Sandstrom discloses a cup-shaped housing disposed about an insulative member. None of the cited art discloses a conically shaped shield, a conically shaped shield attached about a circumference of an intensifier tube and extending outwardly from the circumference of the intensifier tube, a conically shaped shield that extends outwardly from a mounting mechanism or a shield defining a plurality of openings about a perimeter of said shield, as claimed.

Accordingly, in view of at least the above discussion, Applicants respectfully submit that the cited art does not teach, suggest or disclose each and every element of independent Claims 27, 44, 54 and 70, and thus, Applicants respectfully request the Office to reconsider and withdraw the rejection of independent Claims 27, 44, 54 and 70 under 35 U.S.C. § 103(a). In

addition, since Claims 28-43, 45-53, 55-69 and 71-85 depend directly or indirectly from independent Claim 27, 44, 54 or 70, Claims 28-43, 45-53, 55-69 and 71-85 should be in condition for allowance for at least the reasons set forth for Claims 27, 44, 54 and 70 above. Thus, Applicants respectfully request the Office reconsider and withdraw the rejections of Claims 28-43, 45-53, 55-69 and 71-85 under 35 U.S.C. § 103(a).

NEW CLAIM

Claim 86 is new. Support for this new claim can be found throughout the application, drawings and claims as originally filed, and thus, no new matter has been added, via Claim 86. In addition, Claim 86 is believed to be in condition for allowance over the cited art, as the cited art does not teach, suggest or disclose a mounting mechanism that comprises an annular clamp.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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